

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: McKenzie Dean	Team: Squad #14	CCRB Case #: 202006807	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/09/2020 10:45 PM	Location of Incident: Kingston Avenue and Atlantic Avenue	Precinct: 77	18 Mo. SOL 4/9/2022	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 10/10/2020 12:48 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 10/10/2020 1:48 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Patrick Craig	26996	945623	077 PCT
2. POM Austin Slamowitz	15865	962109	077 PCT
3. POF Tiffany Martinez	02382	965310	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Austin Slamowitz	Abuse: Police Officer Austin Slamowitz stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Austin Slamowitz	Abuse: Police Officer Austin Slamowitz interfered with § 87(2)(b)'s use of a recording device.	
C.POM Austin Slamowitz	Abuse: Police Officer Austin Slamowitz frisked § 87(2)(b).	
D.POM Austin Slamowitz	Abuse: Police Officer Austin Slamowitz searched § 87(2)(b).	
E.POM Patrick Craig	Abuse: Police Officer Patrick Craig interfered with § 87(2)(b)'s use of a recording device.	
F.POF Tiffany Martinez	Abuse: Police Officer Tiffany Martinez frisked § 87(2)(b).	
G.POF Tiffany Martinez	Abuse: Police Officer Tiffany Martinez searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
H.POM Austin Slamowitz	Abuse: Police Officer Austin Slamowitz searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
I.POM Patrick Craig	Abuse: Police Officer Patrick Craig failed to provide § 87(2)(b) with a business card.	
J.POM Patrick Craig	Abuse: Police Officer Patrick Craig failed to provide § 87(2)(b) with a business card.	
K.POM Austin Slamowitz	Abuse: Police Officer Austin Slamowitz failed to provide § 87(2)(b) with a business card.	
L.POM Austin Slamowitz	Abuse: Police Officer Austin Slamowitz failed to provide § 87(2)(b) with a business card.	
M.POF Tiffany Martinez	Abuse: Police Officer Tiffany Martinez failed to provide § 87(2)(b) with a business card.	
N.POF Tiffany Martinez	Abuse: Police Officer Tiffany Martinez failed to provide § 87(2)(b) with a business card.	

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

Case Summary

On October 13, 2020, § 87(2)(b) filed this complaint with the CCRB online.

On October 9, 2020 at approximately 10:45 PM, § 87(2)(b) was driving with his girlfriend, § 87(2)(b) in the passenger seat when their vehicle was stopped by Police Officer Austin Slamowitz of the 77th Precinct (**Allegation A: Abuse of authority – Vehicle stop**, § 87(2)(g)). Police Officer Tiffany Martinez and Police Officer Patrick Craig of the 77th Precinct were also in the police vehicle driven by Police Officer Slamowitz. § 87(2)(b) took out his phone and Police Officer Slamowitz allegedly told him he could not record (**Allegation B: Abuse of authority – Interference with recording device**, § 87(2)(g)). Police Officer Slamowitz frisked § 87(2)(b) (**Allegation C: Abuse of authority – Frisk**, § 87(2)(g)) and searched him (**Allegation D: Abuse of authority – Search**, § 87(2)(g)).

Police Officer Craig approached § 87(2)(b) on the passenger-side of the vehicle, told her to leave her phone in the car, and instructed her to exit the vehicle (**Allegation E: Abuse of authority – Interference with recording device**, § 87(2)(g)). § 87(2)(b) exited the vehicle and Police Officer Martinez frisked her (**Allegation F: Abuse of authority – Frisk**, § 87(2)(g)). Police Officer Martinez and Police Officer Slamowitz searched § 87(2)(b)'s vehicle (**Allegation G-H: Abuse of authority – Vehicle search**, § 87(2)(g)). The officers released § 87(2)(b) and § 87(2)(b) without summoning or arresting them or offering them business cards (**Allegations I-N: Abuse of authority – Failure to provide RTKA card**, § 87(2)(g)). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Body-worn camera (BWC) video was received from the BWCs of Police Officer Slamowitz, Police Officer Martinez, and Police Officer Craig. The footage is attached in IAs #48-51 (**BR 06-09**) and is summarized in IA #38 (**BR 10**).

Findings and Recommendations

Allegation (A) Abuse of authority: Police Officer Austin Slamowitz stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) and § 87(2)(b) were interviewed by telephone on October 30, 2020 (**BR 01; BR 02**), Police Officer Martinez was interviewed at the CCRB on April 6, 2021 (**BR 03**), Police Officer Slamowitz was interviewed at the CCRB on April 20, 2021 (**BR 04**), and Police Officer Craig was interviewed at the CCRB on May 21, 2021 (**BR 05**).

§ 87(2)(b) stated that prior to his vehicle being stopped by Police Officer Slamowitz, he obeyed all traffic laws and he was not driving over the speed limit. Police Officer Slamowitz told him he stopped him because he had been driving “aggressively” and his car was “swerving in and out” of the bike lane. During his interview, § 87(2)(b) said he had been driving in the middle of the street and not in the bike lane.

§ 87(2)(b) stated that § 87(2)(b) had been obeying the traffic laws, he had not been driving in the bike lane, and he had not been driving over the speed limit.

Police Officer Slamowitz stated he noticed § 87(2)(b)'s vehicle behind him swerving in and out of the bike lane and flashing its front lights. There was a car in between the officers' vehicle and § 87(2)(b)'s vehicle, but Police Officer Slamowitz was able to see § 87(2)(b)'s headlights when he was periodically pulling into the bike lane. § 87(2)(b) did not appear to be speeding. Police

Officer Slamowitz pulled over to the side of the road to let § 87(2)(b) pass him so he could stop him for disobeying pavement markings. It was his decision to stop § 87(2)(b)'s vehicle because he was the driver and he initiated the traffic stop by turning on the turret lights. Police Officer Slamowitz stated that he used his discretion to ultimately not issue § 87(2)(b) a summons for the traffic violations he observed.

Police Officer Craig stated that he did not observe § 87(2)(b)'s vehicle himself prior to the vehicle stop, but Police Officer Slamowitz told him and Police Officer Martinez that the vehicle was weaving without signaling and driving in and out of the bike lane. Police Officer Craig believed Police Officer Slamowitz noticed this because it was dark outside and he saw the vehicle's headlights in his rearview mirror. Police Officer Slamowitz also told the officers that the vehicle was going fast.

Police Officer Martinez stated that the officers initially observed § 87(2)(b)'s vehicle when it was behind them as § 87(2)(b) was "driving recklessly" by swerving in and out of the bike lane and "dodging" cars. § 87(2)(b) passed the officers and continued swerving and speeding in front of their vehicle. Police Officer Martinez believed § 87(2)(b) was going above the speed limit.

At 00:50 of Police Officer Martinez's BWC video (BR 08), Police Officer Slamowitz tells § 87(2)(b) he observed him going back and forth and driving into the bike lane. § 87(2)(b) asks how he knew he did this and Police Officer Slamowitz says he saw him. § 87(2)(b) says he did not. At 01:40 into Police Officer Slamowitz's BWC video (BR 06), he tells § 87(2)(b) he was driving "extremely aggressive."

§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation (B) Abuse of authority: Police Officer Austin Slamowitz interfered with § 87(2)(b)'s use of a recording device.

§ 87(2)(b) stated that at one point during the incident, he took out his phone and Police Officer Slamowitz told him he could not record.

Police Officer Slamowitz stated that when he asked § 87(2)(b) to exit the vehicle, § 87(2)(b) had a phone in his hand. Police Officer Slamowitz did not want § 87(2)(b) to bring his phone with him so he told him to put it down. Police Officer Slamowitz explained that he did this because, when he searches people, he does not want them to have anything in their hands that they could hit him with. § 87(2)(b) was not recording on his phone when Police Officer Slamowitz instructed him to put it down and the screen was not on. Police Officer Slamowitz was not aware of § 87(2)(b) having any intention of recording the traffic stop when he instructed him to leave his phone and he denied telling him he could not record.

Police Officer Martinez and Police Officer Craig both stated that they did not hear Police Officer Slamowitz tell § 87(2)(b) he was not allowed to record.

At 00:30 of Police Officer Martinez's BWC video (BR 08), the beginning of Police Officer Slamowitz's conversation with § 87(2)(b) is depicted, which is not captured in his own BWC video because the audio does not begin until 00:30 of his video. There is no mention of recording during this part of his interaction with § 87(2)(b). At 00:30 of Police Officer Slamowitz's own

BWC video (**BR 06**), he asks § 87(2)(b) to exit his vehicle and “leave everything on the seat.” He specifically instructs § 87(2)(b) to leave his phone behind. There is no conversation about recording and this is the only point in the incident when § 87(2)(b) has his phone in his possession.

§ 87(2)(g)

Allegation (E) Abuse of authority: Police Officer Patrick Craig interfered with § 87(2)(b) use of a recording device.

It is undisputed that Police Officer Craig approached § 87(2)(b) on the passenger side of the vehicle and told her she could not record the traffic stop. He instructed her to exit the vehicle, which she did, as she left her phone in the car.

§ 87(2)(b) stated that Police Officer Craig told her it was illegal to record a traffic stop. § 87(2)(b) and § 87(2)(b) both stated that at one point, Police Officer Craig reached out in an apparent attempt to “grab” § 87(2)(b) phone, but she pulled her arm away from him and told him he could not take it.

At 01:00 into Police Officer Craig’s BWC video (**BR 09**), he asks § 87(2)(b) “Miss, can you get off the phone?” She asks him why and he tells her, “For our safety we don’t want people having the phone.” She says she is recording and he tells her she is not allowed to at a car stop. At 02:15 into the video, § 87(2)(b) begins exiting the vehicle and Police Officer Craig tells her to leave her phone and says she is not allowed to bring her phone out during a car stop. BWC video of the incident does not clearly depict Police Officer Craig reach his arm toward § 87(2)(b) phone.

Police Officer Craig stated he told § 87(2)(b) she could not have her phone and asked her to put it down. He explained he did this due to officer safety concerns. He stated he did not believe he told § 87(2)(b) she could not record. Police Officer Craig explained he was aware that civilians are allowed to record, however, due to safety concerns associated with pulling an individual out of a vehicle, they are not allowed to have anything in their hands. When asked if he interfered with § 87(2)(b) recording of the traffic stop, Police Officer Craig stated he did because of officer safety concerns and not for the sole purpose of preventing her from recording.

During his CCRB interview, Police Officer Craig was shown 01:05 to 01:23 of his BWC video (**BR 09**). When asked to speak to him telling § 87(2)(b) she could not record during a car stop, Police Officer Craig acknowledged that he did so but explained that he should have clarified in this moment to § 87(2)(b) during the incident that he meant he did not want § 87(2)(b) to have anything in her hands.

Police Officer Martinez stated that the officers asked § 87(2)(b) to exit the vehicle, but she was “combative” and did not comply as she was recording a video on her phone. The officers told her she was able to record but asked her not to have her phone in the officers’ faces for their safety. Once § 87(2)(b) was out of the vehicle, she continued recording a video on her cell phone. Police Officer Martinez did not witness Police Officer Craig tell § 87(2)(b) she could not record the traffic stop. She also did not witness Police Officer Craig attempt to grab § 87(2)(b) cell phone.

Patrol Guide Procedure 203-29 (**BR 16**) states that individuals have a right to lawfully observe and/or record police activity including, but not limited to detentions, searches, arrests or uses of

force. This right to observe and/or record police action can be limited for reasons such as the safety of officers or other members of the public, or when a violation of law is committed by the individual who is observing/recording.

§ 87(2)(g)

Allegation (C) Abuse of authority: Police Officer Austin Slamowitz frisked § 87(2)(b)

Allegation (D) Abuse of authority: Police Officer Austin Slamowitz searched § 87(2)(b)

Allegation (F) Abuse of authority: Police Officer Tiffany Martinez frisked § 87(2)(b)

Allegation (G) Abuse of authority: Police Officer Tiffany Martinez searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (H) Abuse of authority: Police Officer Austin Slamowitz searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that Police Officer Slamowitz frisked and searched § 87(2)(b) and searched the trunk of § 87(2)(b)'s vehicle. Police Officer Martinez frisked § 87(2)(b) and searched the cabin of § 87(2)(b)'s vehicle.

§ 87(2)(b) and § 87(2)(b) consistently stated they did not smoke marijuana, there was no marijuana inside § 87(2)(b)'s vehicle during the incident, and there had not been any marijuana inside his vehicle prior to the incident. They had also not been around other people who smoked marijuana that day.

The officers consistently stated that upon approaching § 87(2)(b)'s vehicle, they observed an odor of marijuana. They frisked and/or searched § 87(2)(b) and § 87(2)(b) and searched the vehicle for the purpose of checking for marijuana.

At 03:10 into Police Officer Slamowitz's BWC video (**BR 06**), he asks § 87(2)(b) if he and § 87(2)(b) had been smoking. § 87(2)(b) repeatedly tells the officers he does not smoke and he has never smoked in his life. Police Officer Slamowitz says there are ashes in the backseat of the car and he smelled marijuana when he approached § 87(2)(b)'s vehicle. § 87(2)(b) says there are no ashes and § 87(2)(b) says the officers could drug test her and § 87(2)(b)

§ 87(2)(g)

Allegation (I) Abuse of authority: Police Officer Patrick Craig failed to provide § 87(2)(b) with a business card.

Allegation (J) Abuse of authority: Police Officer Patrick Craig failed to provide § 87(2)(b) with a business card.

Allegation (K) Abuse of authority: Police Officer Austin Slamowitz failed to provide § 87(2)(b) with a business card.

Allegation (L) Abuse of authority: Police Officer Austin Slamowitz failed to provide § 87(2)(b) with a business card.

Allegation (M) Abuse of authority: Police Officer Tiffany Martinez failed to provide § 87(2)(b) with a business card.

Allegation (N) Abuse of authority: Police Officer Tiffany Martinez failed to provide § 87(2)(b) with a business card.

It is undisputed that none of the officers offered or provided RTKA cards to § 87(2)(b) or § 87(2)(b) during the incident. The officers consistently stated that they were not required to provide a business card because § 87(2)(b) and § 87(2)(b) did not request them.

NYC Administrative Code 14-174 (**BR 15**) states that a business card is to be offered for a law enforcement activity, including stops, frisks, and searches of persons and vehicles, except in cases when a summons is issued, or an arrest is made.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which either § 87(2)(b) or § 87(2)(b) has been a party (**BR 13 and 14**).
- Police Officer Austin Slamowitz has been a member of service for four years and has been a subject in three other CCRB complaints and five other allegations, one of which was substantiated:
 - 201702803 involved a substantiated allegation of refusal to provide name and shield number, for which the Board recommended instructions, which was imposed by the NYPD.
 - § 87(2)(g)
- Police Officer Patrick Craig has been a member of service for 13 years and has been a subject in 19 other CCRB complaints and 58 other allegations, four of which were substantiated in two cases:

- 201201580 involved a substantiated allegation of frisk, for which the Board recommended charges and the NYPD imposed instructions.
- 201706371 involved substantiated allegations of force, discourtesy, and refusal to provide name and shield. The Board recommended charges. He was found guilty in an APU trial and the NYPD imposed discipline of the forfeiture of 10 vacation days.

○ § 87(2)(g) [REDACTED]

- Police Officer Tiffany Martinez has been a member of service for three years and has been a subject in three other CCRB complaints and eight other allegations, none of which have been substantiated. § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- A Notice of Claim search request was submitted to the NYC Comptroller's Office, the results of which will be added to the case file upon receipt.

Squad No.: 2

Investigator:	<u>Inv. Dean</u> Signature	<u>Inv. Dean</u> Print Title & Name	<u>6/24/21</u> Date
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Squad Leader:	<u>Cassandra Fenkel</u> Signature	<u>IM Cassandra Fenkel</u> Print Title & Name	<u>3/15/2022</u> Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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